

REFERENCE TITLE: uniform environmental covenants act

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SB 1372

Introduced by
Senator Allen

AN ACT

AMENDING TITLE 49, CHAPTER 1, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 6;
RELATING TO THE UNIFORM ENVIRONMENTAL COVENANTS ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 49, chapter 1, Arizona Revised Statutes, is amended
3 by adding article 6, to read:

4 ARTICLE 6. UNIFORM ENVIRONMENTAL COVENANTS ACT

5 49-191.01. Short title

6 THIS ARTICLE MAY BE CITED AS THE UNIFORM ENVIRONMENTAL COVENANTS ACT.

7 49-191.02. Definitions

8 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "ACTIVITY AND USE LIMITATIONS" MEANS RESTRICTIONS OR OBLIGATIONS
10 CREATED UNDER THIS ARTICLE WITH RESPECT TO REAL PROPERTY.

11 2. "AGENCY" MEANS THE DEPARTMENT OF ENVIRONMENTAL QUALITY OR ANY OTHER
12 STATE OR FEDERAL AGENCY THAT DETERMINES OR APPROVES THE ENVIRONMENTAL
13 RESPONSE PROJECT PURSUANT TO WHICH THE ENVIRONMENTAL COVENANT IS CREATED.

14 3. "COMMON INTEREST COMMUNITY" MEANS A CONDOMINIUM, COOPERATIVE,
15 PLANNED COMMUNITY OR OTHER REAL PROPERTY WITH RESPECT TO WHICH A PERSON BY
16 VIRTUE OF THE PERSON'S OWNERSHIP OF A PARCEL OF REAL PROPERTY IS OBLIGATED TO
17 PAY PROPERTY TAXES OR INSURANCE PREMIUMS, OR FOR MAINTENANCE, OR IMPROVEMENT
18 OF OTHER REAL PROPERTY DESCRIBED IN A RECORDED COVENANT THAT CREATES THE
19 COMMON INTEREST COMMUNITY.

20 4. "ENVIRONMENTAL COVENANT" MEANS A SERVITUDE ARISING UNDER AN
21 ENVIRONMENTAL RESPONSE PROJECT THAT IMPOSES ACTIVITY AND USE LIMITATIONS.

22 5. "ENVIRONMENTAL RESPONSE PROJECT" MEANS A PLAN OR WORK THAT IS
23 PERFORMED FOR ENVIRONMENTAL REMEDIATION OF REAL PROPERTY AND THAT IS
24 CONDUCTED PURSUANT TO ANY OF THE FOLLOWING:

25 (a) UNDER A FEDERAL OR STATE PROGRAM GOVERNING ENVIRONMENTAL
26 REMEDIATION OF REAL PROPERTY, INCLUDING A REMEDIAL ACTION PURSUANT TO CHAPTER
27 2, ARTICLE 5 OF THIS TITLE.

28 (b) INCIDENT TO CLOSURE OF A SOLID OR HAZARDOUS WASTE MANAGEMENT UNIT,
29 IF THE CLOSURE IS CONDUCTED WITH APPROVAL OF AN AGENCY.

30 (c) UNDER A STATE VOLUNTARY CLEAN-UP PROGRAM AUTHORIZED IN ARTICLE 5
31 OF THIS CHAPTER.

32 6. "HOLDER" MEANS THE GRANTEE OF AN ENVIRONMENTAL COVENANT AS
33 PRESCRIBED IN SECTION 49-191.03.

34 7. "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE,
35 TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE,
36 PUBLIC CORPORATION, GOVERNMENT, GOVERNMENTAL SUBDIVISION, AGENCY OR
37 INSTRUMENTALITY OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

38 8. "RECORD", USED AS A NOUN, MEANS INFORMATION THAT IS INSCRIBED ON A
39 TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND THAT
40 IS RETRIEVABLE IN PERCEIVABLE FORM.

41 9. "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF
42 COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS OR ANY TERRITORY OR
43 INSULAR POSSESSION THAT IS SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

44 49-191.03. Nature of rights; subordination of interests

45 A. ANY PERSON, INCLUDING A PERSON THAT OWNS AN INTEREST IN THE REAL
46 PROPERTY, THE AGENCY OR A MUNICIPALITY OR OTHER POLITICAL SUBDIVISION OF THIS

1 STATE MAY BE A HOLDER. AN ENVIRONMENTAL COVENANT MAY IDENTIFY MORE THAN ONE
2 HOLDER. THE INTEREST OF A HOLDER IS AN INTEREST IN REAL PROPERTY.

3 B. A RIGHT OF AN AGENCY UNDER THIS ARTICLE OR UNDER AN ENVIRONMENTAL
4 COVENANT, OTHER THAN A RIGHT AS A HOLDER, IS NOT AN INTEREST IN REAL
5 PROPERTY.

6 C. AN AGENCY IS BOUND BY ANY OBLIGATION IT ASSUMES IN AN ENVIRONMENTAL
7 COVENANT, BUT AN AGENCY DOES NOT ASSUME OBLIGATIONS MERELY BY SIGNING AN
8 ENVIRONMENTAL COVENANT. ANY OTHER PERSON THAT SIGNS AN ENVIRONMENTAL
9 COVENANT IS BOUND BY THE OBLIGATIONS THE PERSON ASSUMES IN THE COVENANT, BUT
10 SIGNING THE COVENANT DOES NOT CHANGE OBLIGATIONS, RIGHTS OR PROTECTIONS
11 GRANTED OR IMPOSED UNDER LAW OTHER THAN THIS ARTICLE EXCEPT AS PROVIDED IN
12 THE COVENANT.

13 D. THE FOLLOWING RULES APPLY TO INTERESTS IN REAL PROPERTY IN
14 EXISTENCE AT THE TIME AN ENVIRONMENTAL COVENANT IS CREATED OR AMENDED:

15 1. AN INTEREST THAT HAS PRIORITY UNDER OTHER LAW IS NOT AFFECTED BY AN
16 ENVIRONMENTAL COVENANT UNLESS THE PERSON WHO OWNS THE INTEREST SUBORDINATES
17 THAT INTEREST TO THE COVENANT.

18 2. THIS ARTICLE DOES NOT REQUIRE A PERSON WHO OWNS A PRIOR INTEREST TO
19 SUBORDINATE THAT INTEREST TO AN ENVIRONMENTAL COVENANT OR TO AGREE TO BE
20 BOUND BY THE COVENANT.

21 3. A SUBORDINATION AGREEMENT MAY BE CONTAINED IN AN ENVIRONMENTAL
22 COVENANT COVERING REAL PROPERTY OR IN A SEPARATE RECORD. IF THE
23 ENVIRONMENTAL COVENANT COVERS COMMONLY OWNED PROPERTY IN A COMMON INTEREST
24 COMMUNITY, THE RECORD MAY BE SIGNED BY ANY PERSON AUTHORIZED BY THE GOVERNING
25 BOARD OF THE OWNERS' ASSOCIATION.

26 4. AN AGREEMENT BY A PERSON TO SUBORDINATE A PRIOR INTEREST TO AN
27 ENVIRONMENTAL COVENANT AFFECTS THE PRIORITY OF THAT PERSON'S INTEREST BUT
28 DOES NOT BY ITSELF IMPOSE ANY AFFIRMATIVE OBLIGATION ON THE PERSON WITH
29 RESPECT TO THE ENVIRONMENTAL COVENANT.

30 49-191.04. Contents of environmental covenant

31 A. AN ENVIRONMENTAL COVENANT SHALL COMPLY WITH ALL OF THE FOLLOWING:
32 1. STATE THAT THE INSTRUMENT IS AN ENVIRONMENTAL COVENANT EXECUTED
33 PURSUANT TO THIS ARTICLE.

34 2. CONTAIN A LEGALLY SUFFICIENT DESCRIPTION OF THE REAL PROPERTY
35 SUBJECT TO THE COVENANT.

36 3. DESCRIBE THE ACTIVITY AND USE LIMITATIONS ON THE REAL PROPERTY.

37 4. IDENTIFY EVERY HOLDER.

38 5. BE SIGNED BY THE AGENCY, EVERY HOLDER AND, UNLESS WAIVED BY THE
39 AGENCY, EVERY OWNER OF THE FEE SIMPLE OF THE REAL PROPERTY SUBJECT TO THE
40 COVENANT.

41 6. IDENTIFY THE NAME AND LOCATION OF ANY ADMINISTRATIVE RECORD FOR THE
42 ENVIRONMENTAL RESPONSE PROJECT REFLECTED IN THE ENVIRONMENTAL COVENANT.

43 B. IN ADDITION TO THE INFORMATION PRESCRIBED BY SUBSECTION A OF THIS
44 SECTION, AN ENVIRONMENTAL COVENANT MAY CONTAIN OTHER INFORMATION,
45 RESTRICTIONS AND REQUIREMENTS AGREED TO BY THE PERSONS WHO SIGNED IT
46 INCLUDING ANY OF THE FOLLOWING:

1 1. REQUIREMENTS FOR NOTICE FOLLOWING TRANSFER OF A SPECIFIED INTEREST
2 IN, OR CONCERNING PROPOSED CHANGES IN USE OF, APPLICATIONS FOR BUILDING
3 PERMITS FOR OR PROPOSALS FOR ANY SITE WORK AFFECTING THE CONTAMINATION ON THE
4 PROPERTY SUBJECT TO THE COVENANT.

5 2. REQUIREMENTS FOR PERIODIC REPORTING DESCRIBING COMPLIANCE WITH THE
6 COVENANT.

7 3. RIGHTS OF ACCESS TO THE PROPERTY GRANTED IN CONNECTION WITH
8 IMPLEMENTATION OR ENFORCEMENT OF THE COVENANT.

9 4. A BRIEF NARRATIVE DESCRIPTION OF THE CONTAMINATION AND REMEDY,
10 INCLUDING THE CONTAMINANTS OF CONCERN, THE PATHWAYS OF EXPOSURE, LIMITS ON
11 EXPOSURE AND THE LOCATION AND EXTENT OF THE CONTAMINATION.

12 5. LIMITATIONS ON AMENDMENT OR TERMINATION OF THE COVENANT IN ADDITION
13 TO THOSE CONTAINED IN SECTIONS 49-191.09 AND 49-191.10.

14 6. RIGHTS OF THE HOLDER IN ADDITION TO ITS RIGHT TO ENFORCE THE
15 COVENANT PURSUANT TO SECTION 49-191.11.

16 C. IN ADDITION TO OTHER CONDITIONS FOR ITS APPROVAL OF AN
17 ENVIRONMENTAL COVENANT, THE AGENCY MAY REQUIRE THOSE PERSONS SPECIFIED BY THE
18 AGENCY WHO HAVE INTERESTS IN THE REAL PROPERTY TO SIGN THE COVENANT.

19 49-191.05. Validity; effect on other instruments

20 A. AN ENVIRONMENTAL COVENANT THAT COMPLIES WITH THIS ARTICLE RUNS WITH
21 THE LAND.

22 B. AN ENVIRONMENTAL COVENANT THAT IS OTHERWISE EFFECTIVE IS VALID AND
23 ENFORCEABLE EVEN IF:

24 1. IT IS NOT APPURTENANT TO AN INTEREST IN REAL PROPERTY.

25 2. IT CAN BE OR HAS BEEN ASSIGNED TO A PERSON OTHER THAN THE ORIGINAL
26 HOLDER.

27 3. IT IS NOT OF A CHARACTER THAT HAS BEEN RECOGNIZED TRADITIONALLY AT
28 COMMON LAW.

29 4. IT IMPOSES A NEGATIVE BURDEN.

30 5. IT IMPOSES AN AFFIRMATIVE OBLIGATION ON A PERSON HAVING AN INTEREST
31 IN THE REAL PROPERTY OR ON THE HOLDER.

32 6. THE BENEFIT OR BURDEN DOES NOT TOUCH OR CONCERN REAL PROPERTY.

33 7. THERE IS NO PRIVY OF ESTATE OR CONTRACT.

34 8. THE HOLDER DIES, CEASES TO EXIST, RESIGNS OR IS REPLACED.

35 9. THE OWNER OF AN INTEREST SUBJECT TO THE ENVIRONMENTAL COVENANT AND
36 THE HOLDER ARE THE SAME PERSON.

37 C. AN INSTRUMENT THAT CREATES RESTRICTIONS OR OBLIGATIONS WITH RESPECT
38 TO REAL PROPERTY THAT WOULD QUALIFY AS ACTIVITY AND USE LIMITATIONS EXCEPT
39 FOR THE FACT THAT THE INSTRUMENT WAS RECORDED BEFORE THE EFFECTIVE DATE OF
40 THIS ARTICLE IS NOT INVALID OR UNENFORCEABLE BECAUSE OF ANY OF THE
41 LIMITATIONS ON ENFORCEMENT OF INTERESTS DESCRIBED IN SUBSECTION B OR BECAUSE
42 IT WAS IDENTIFIED AS AN EASEMENT, SERVITUDE, DEED RESTRICTION OR OTHER
43 INTEREST. THIS ARTICLE DOES NOT APPLY IN ANY OTHER RESPECT TO SUCH AN
44 INSTRUMENT.

D. THIS ARTICLE DOES NOT INVALIDATE OR RENDER UNENFORCEABLE ANY INTEREST, WHETHER DESIGNATED AS AN ENVIRONMENTAL COVENANT OR OTHER INTEREST, THAT IS OTHERWISE ENFORCEABLE UNDER THE LAW OF THIS STATE.

49-191.06. Relationship to other land use law

THIS ARTICLE DOES NOT AUTHORIZE A USE OF REAL PROPERTY THAT IS OTHERWISE PROHIBITED BY ZONING REGULATION, BY LAWS OTHER THAN THIS ARTICLE REGULATING USE OF REAL PROPERTY OR BY A RECORDED INSTRUMENT THAT HAS PRIORITY OVER THE ENVIRONMENTAL COVENANT. AN ENVIRONMENTAL COVENANT MAY PROHIBIT OR RESTRICT USES OF REAL PROPERTY THAT ARE AUTHORIZED BY ZONING REGULATION OR BY LAWS OTHER THAN THIS ARTICLE.

49-191.07. Notice

A. A COPY OF AN ENVIRONMENTAL COVENANT SHALL BE PROVIDED BY THE PERSONS AND IN THE MANNER REQUIRED BY THE AGENCY TO ALL OF THE FOLLOWING:

1. EACH PERSON THAT SIGNED THE COVENANT.
2. EACH PERSON HOLDING A RECORDED INTEREST IN THE REAL PROPERTY SUBJECT TO THE COVENANT.
3. EACH PERSON IN POSSESSION OF THE REAL PROPERTY SUBJECT TO THE COVENANT.
4. EACH MUNICIPALITY OR OTHER UNIT OF LOCAL GOVERNMENT IN WHICH REAL PROPERTY SUBJECT TO THE COVENANT IS LOCATED.
5. ANY OTHER PERSON THE AGENCY REQUIRES.

B. THE VALIDITY OF A COVENANT IS NOT AFFECTED BY FAILURE TO PROVIDE A COPY OF THE COVENANT AS REQUIRED UNDER THIS SECTION.

49-191.08. Recording

A. AN ENVIRONMENTAL COVENANT AND ANY AMENDMENT OR TERMINATION OF THE COVENANT SHALL BE RECORDED IN EVERY COUNTY IN WHICH ANY PORTION OF THE REAL PROPERTY SUBJECT TO THE COVENANT IS LOCATED. FOR PURPOSES OF INDEXING, A HOLDER SHALL BE TREATED AS A GRANTEE.

B. EXCEPT AS OTHERWISE PROVIDED IN SECTION 49-191.09, SUBSECTION C, AN ENVIRONMENTAL COVENANT IS SUBJECT TO THE LAWS OF THIS STATE GOVERNING RECORDING AND PRIORITY OF INTERESTS IN REAL PROPERTY.

49-191.09. Duration; amendment by court action

- A. AN ENVIRONMENTAL COVENANT IS PERPETUAL UNLESS IT IS:
1. BY ITS TERMS LIMITED TO A SPECIFIC DURATION OR TERMINATED BY THE OCCURRENCE OF A SPECIFIC EVENT.
 2. TERMINATED BY CONSENT PURSUANT TO SECTION 49-191.10.
 3. TERMINATED PURSUANT TO SUBSECTION B OF THIS SECTION.
 4. TERMINATED BY FORECLOSURE OF AN INTEREST THAT HAS PRIORITY OVER THE ENVIRONMENTAL COVENANT.
 5. TERMINATED OR MODIFIED IN AN EMINENT DOMAIN PROCEEDING, BUT ONLY IF ALL OF THE FOLLOWING APPLY:
 - (a) THE AGENCY THAT SIGNED THE COVENANT IS A PARTY TO THE PROCEEDING.
 - (b) ALL PERSONS IDENTIFIED IN SECTION 49-191.10, SUBSECTIONS A AND B ARE GIVEN NOTICE OF THE PENDENCY OF THE PROCEEDING.
 - (c) THE COURT DETERMINES AFTER HEARING THAT THE TERMINATION OR MODIFICATION WILL NOT ADVERSELY AFFECT HUMAN HEALTH OR THE ENVIRONMENT.

B. IF THE AGENCY THAT SIGNED AN ENVIRONMENTAL COVENANT HAS DETERMINED THAT THE INTENDED BENEFITS OF THE COVENANT CAN NO LONGER BE REALIZED, A COURT UNDER THE DOCTRINE OF CHANGED CIRCUMSTANCES IN AN ACTION IN WHICH ALL PERSONS IDENTIFIED IN SECTION 49-191.10, SUBSECTIONS A AND B HAVE BEEN GIVEN NOTICE MAY TERMINATE THE COVENANT OR REDUCE ITS BURDEN ON THE REAL PROPERTY SUBJECT TO THE COVENANT. THE AGENCY'S DETERMINATION OR ITS FAILURE TO MAKE A DETERMINATION ON REQUEST IS SUBJECT TO REVIEW PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

C. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS A AND B OF THIS SECTION, AN ENVIRONMENTAL COVENANT MAY NOT BE EXTINGUISHED, LIMITED OR IMPAIRED THROUGH ISSUANCE OF A TAX DEED, FORECLOSURE OF A TAX LIEN OR APPLICATION OF THE DOCTRINE OF ADVERSE POSSESSION, PRESCRIPTION, ABANDONMENT, WAIVER, LACK OF ENFORCEMENT OR ACQUIESCENCE, OR A SIMILAR DOCTRINE.

49-191.10. Amendment or termination by consent

A. AN ENVIRONMENTAL COVENANT MAY BE AMENDED OR TERMINATED BY CONSENT ONLY IF THE AMENDMENT OR TERMINATION IS SIGNED BY ALL OF THE FOLLOWING:

1. THE AGENCY.
2. UNLESS WAIVED BY THE AGENCY, THE CURRENT OWNER OF THE FEE SIMPLE OF THE REAL PROPERTY SUBJECT TO THE COVENANT.

3. EACH PERSON THAT ORIGINALLY SIGNED THE COVENANT, UNLESS THE PERSON WAIVED IN A SIGNED RECORD THE RIGHT TO CONSENT OR A COURT FINDS THAT THE PERSON NO LONGER EXISTS OR CANNOT BE LOCATED OR IDENTIFIED WITH THE EXERCISE OF REASONABLE DILIGENCE.

4. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION D, PARAGRAPH 2, THE HOLDER.

B. IF AN INTEREST IN REAL PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT, THE INTEREST IS NOT AFFECTED BY AN AMENDMENT OF THE COVENANT UNLESS THE CURRENT OWNER OF THE INTEREST CONSENTS TO THE AMENDMENT OR HAS WAIVED IN A SIGNED RECORD THE RIGHT TO CONSENT TO AMENDMENTS.

C. EXCEPT FOR AN ASSIGNMENT UNDERTAKEN PURSUANT TO A GOVERNMENTAL REORGANIZATION, ASSIGNMENT OF AN ENVIRONMENTAL COVENANT TO A NEW HOLDER IS AN AMENDMENT.

D. EXCEPT AS OTHERWISE PROVIDED IN AN ENVIRONMENTAL COVENANT:

1. A HOLDER MAY NOT ASSIGN ITS INTEREST WITHOUT CONSENT OF THE OTHER PARTIES.

2. A HOLDER MAY BE REMOVED AND REPLACED BY AGREEMENT OF THE OTHER PARTIES SPECIFIED IN SUBSECTION A.

3. A COURT OF COMPETENT JURISDICTION MAY FILL A VACANCY IN THE POSITION OF HOLDER.

49-191.11. Enforcement of environmental covenant

A. A CIVIL ACTION FOR INJUNCTIVE OR OTHER EQUITABLE RELIEF FOR VIOLATION OF AN ENVIRONMENTAL COVENANT MAY BE MAINTAINED BY ANY OF THE FOLLOWING:

1. A PARTY TO THE COVENANT.
2. THE AGENCY OR, IF IT IS NOT THE AGENCY, THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

1 3. ANY PERSON TO WHOM THE COVENANT EXPRESSLY GRANTS POWER TO ENFORCE.
2 4. A PERSON WHOSE INTEREST IN THE REAL PROPERTY OR WHOSE COLLATERAL OR
3 LIABILITY MAY BE AFFECTED BY THE ALLEGED VIOLATION OF THE COVENANT.

4 5. A MUNICIPALITY OR OTHER UNIT OF LOCAL GOVERNMENT IN WHICH THE REAL
5 PROPERTY SUBJECT TO THE COVENANT IS LOCATED.

6 B. THIS ARTICLE DOES NOT LIMIT THE REGULATORY AUTHORITY OF THE AGENCY
7 OR THE DEPARTMENT OF ENVIRONMENTAL QUALITY UNDER LAWS OTHER THAN THIS ARTICLE
8 WITH RESPECT TO AN ENVIRONMENTAL RESPONSE PROJECT.

9 C. A PERSON IS NOT RESPONSIBLE FOR OR SUBJECT TO LIABILITY FOR
10 ENVIRONMENTAL REMEDIATION SOLELY BECAUSE IT HAS THE RIGHT TO ENFORCE AN
11 ENVIRONMENTAL COVENANT.

12 49-191.12. Registry; substitute notice

13 A. THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL ESTABLISH AND
14 MAINTAIN A REGISTRY THAT CONTAINS ALL ENVIRONMENTAL COVENANTS AND ANY
15 AMENDMENT OR TERMINATION OF THOSE COVENANTS. THE REGISTRY MAY ALSO CONTAIN
16 ANY OTHER INFORMATION CONCERNING ENVIRONMENTAL COVENANTS AND THE REAL
17 PROPERTY SUBJECT TO THEM THAT THE DEPARTMENT CONSIDERS APPROPRIATE. THE
18 REGISTRY IS A PUBLIC RECORD FOR PURPOSES OF TITLE 39, CHAPTER 1.

19 B. AFTER AN ENVIRONMENTAL COVENANT OR AN AMENDMENT OR TERMINATION OF A
20 COVENANT IS FILED IN THE REGISTRY ESTABLISHED PURSUANT TO SUBSECTION A OF
21 THIS SECTION, A NOTICE OF THE COVENANT, AMENDMENT OR TERMINATION THAT
22 COMPLIES WITH THIS SECTION MAY BE RECORDED IN THE LAND RECORDS INSTEAD OF
23 RECORDING THE ENTIRE COVENANT. ANY SUCH NOTICE SHALL CONTAIN ALL OF THE
24 FOLLOWING:

25 1. A LEGALLY SUFFICIENT DESCRIPTION AND ANY AVAILABLE STREET ADDRESS
26 OF THE REAL PROPERTY SUBJECT TO THE COVENANT.

27 2. THE NAME AND ADDRESS OF THE OWNER OF THE FEE SIMPLE INTEREST IN THE
28 REAL PROPERTY, THE AGENCY AND THE HOLDER IF OTHER THAN THE AGENCY.

29 3. A STATEMENT THAT THE COVENANT, AMENDMENT OR TERMINATION IS
30 AVAILABLE IN A REGISTRY AT THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND THAT
31 DISCLOSES THE METHOD OF ANY ELECTRONIC ACCESS.

32 4. A STATEMENT THAT THE NOTICE IS NOTIFICATION OF AN ENVIRONMENTAL
33 COVENANT EXECUTED PURSUANT TO THIS ARTICLE.

34 C. A STATEMENT IN SUBSTANTIALLY THE FOLLOWING FORM, EXECUTED WITH THE
35 SAME FORMALITIES AS A DEED IN THIS STATE, SATISFIES THE REQUIREMENTS OF
36 SUBSECTION B OF THIS SECTION:

37 NOTICE

38 1. THIS NOTICE IS FILED IN THE LAND RECORDS OF THE COUNTY
39 OF (INSERT NAME OF COUNTY IN WHICH THE REAL PROPERTY IS LOCATED)
40 PURSUANT TO SECTION 49-191.12 OF THE UNIFORM ENVIRONMENTAL
41 COVENANTS ACT.

42 2. THIS NOTICE AND THE COVENANT, AMENDMENT OR TERMINATION
43 TO WHICH IT REFERS MAY IMPOSE SIGNIFICANT OBLIGATIONS WITH
44 RESPECT TO THE PROPERTY DESCRIBED BELOW.

45 3. A LEGAL DESCRIPTION OF THE PROPERTY IS ATTACHED AS
46 EXHIBIT A TO THIS NOTICE. THE ADDRESS OF THE PROPERTY THAT IS

SUBJECT TO THE ENVIRONMENTAL COVENANT IS _____ (INSERT ADDRESS OF PROPERTY) OR _____ (NOT AVAILABLE).

4. THE NAME AND ADDRESS OF THE OWNER OF THE FEE SIMPLE INTEREST IN THE REAL PROPERTY ON THE DATE OF THIS NOTICE IS _____ (INSERT NAME OF CURRENT OWNER OF THE PROPERTY AND THE OWNER'S CURRENT ADDRESS AS SHOWN ON THE TAX RECORDS OF THE JURISDICTION IN WHICH THE PROPERTY IS LOCATED).

5. THE ENVIRONMENTAL COVENANT, AMENDMENT OR TERMINATION WAS SIGNED BY _____ (INSERT NAME AND ADDRESS OF THE AGENCY).

6. THE ENVIRONMENTAL COVENANT, AMENDMENT OR TERMINATION WAS FILED IN THE REGISTRY ON _____ (INSERT DATE OF FILING).

7. THE FULL TEXT OF THE COVENANT, AMENDMENT OR TERMINATION AND ANY OTHER INFORMATION REQUIRED BY THE AGENCY IS ON FILE AND AVAILABLE FOR INSPECTION AND COPYING IN THE REGISTRY MAINTAINED FOR THAT PURPOSE BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY AT THE AGENCY'S ADMINISTRATIVE OFFICES.

49-191.13. Uniformity of application and construction

IN APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

49-191.14. Relation to electronic signatures in global and national commerce act

THIS ARTICLE MODIFIES, LIMITS OR SUPERSEDES THE FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT (15 UNITED STATES CODE SECTION 7001 ET SEQ.) BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE SECTION 101 OF THAT ACT (15 UNITED STATES CODE SECTION 7001(a)) OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 103 OF THAT ACT (15 UNITED STATES CODE SECTION 7003(b)).

49-191.15. Severability

IF ANY PROVISION OF THIS ARTICLE OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS ARTICLE THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS ARTICLE ARE SEVERABLE.